

**UNITED STATES DISTRICT COURT WESTERN  
DISTRICT OF TENNESSEE WESTERN DIVISION**

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G.S., by and through his parents and next friends, BRITTANY AND RYAN SCHWAIGERT; S.T., by and through her mother and next friend, EMILY TREMEL; and on behalf of those similarly situated,

Plaintiffs,

v.

Case No. 2:21-cv-2552-SHL-atc

GOVERNOR BILL LEE, in his official Capacity as GOVERNOR OF THE STATE OF TENNESSEE and SHELBY COUNTY, TENNESSEE

Defendants.

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**DEFENDANT SHELBY COUNTY, TENNESSEE’S RESPONSE TO  
PLAINTIFFS’ MOTION FOR TEMPORARY RESTRAINING ORDER**

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Plaintiff Shelby County, Tennessee (the “County”) hereby responds to Plaintiffs G.S., by and through his parents and next friends, Brittany and Ryan Schwaigert and S.T., by and through her mother and next friend, Emily Tremel’s (“Plaintiffs”) Motion for Temporary Restraining Order and Preliminary Injunction, filed on August 27, 2021. (ECF No. 2).

The County filed a Verified Complaint on August 26, 2021 for declaratory, injunctive and other relief, requesting that the Court enjoin Governor Bill Lee from enforcing an executive order stating that a “student’s parent or guardian shall have the right to opt out of any order or requirement for a student in kindergarten through twelfth-grade to wear a face covering at school, on a school bus, or at school functions, by affirmatively notifying in writing the local education agency or personnel at the student’s school.” *See Shelby County, Tennessee v. Governor Bill Lee*,

Case No. 2:21-cv-02250-SHL-atc (W.D. Tenn. Aug. 26, 2021) (citing Tenn. Exec. Order No. 84 (Aug. 16, 2021), <https://publications.tnsosfiles.com/pub/execorders/exec-orders-lee84.pdf> (“Order 84”)). Subsequent to the County’s filing, on August 27, 2021, “school-age children with disabilities that render them medically vulnerable to COVID-19” filed this putative class action in the District Court for the Western District of Tennessee by and through their parents and next friends seeking, *inter alia*, emergency injunctive relief. (ECF Nos. 1, 2) (“Children’s’ Action”). Plaintiffs in the Children’s Action attend schools within Local Education Agencies in Shelby County, Tennessee.

The County has been named as a defendant in the Children’s Action. The County and Plaintiffs in the Children’s Action both seek to enjoin Defendant Governor Bill Lee from permitting parents of students in Shelby County to opt-out of mask mandates in schools. *See* Order 84. Given the posture of the Children’s Action, the County affirmatively states that it does not have the authority to provide relief from Order 84 and does not admit to any wrongdoing related to the Children’s Action; however, it does not object to the emergency relief sought therein as to Governor Bill Lee, the State of Tennessee or Shelby County, Tennessee.

Respectfully submitted,

BURCH, PORTER AND JOHNSON, PLLC

s/Tannera George Gibson

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*Counsel for Defendant Shelby County, Tennessee*

**CERTIFICATE OF SERVICE**

I hereby certify that on August 30, 2021, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will operate to provide notice of this filing to all counsel of record in this case.

s/Tannera George Gibson